

# **Energy Savings Performance Contracts (ESPC) Report on ESPC Authority**

**Federal Energy Management  
Advisory Committee (FEMAC)**

September 8, 2004





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# PREFACE

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The Federal Energy Management Advisory Committee (FEMAC) was established by Executive Order 13123, *Greening the Government through Efficient Energy Management*. The purpose of the committee is to provide the Department of Energy (DOE) with an independent view on enhancing energy management in the Federal sector. The order directs FEMAC to address a range of issues, including how to improve the use of Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs), improve procurement of Energy Star® and other energy efficient products, improve building design, reduce process energy use, and enhance applications of efficient and renewable energy technologies at Federal facilities.

Committee members are appointed by the Secretary of Energy and include representatives from Federal and state agencies; utility and energy service companies; environmental, energy, and consumer groups; and other

energy-related organizations. The DOE's Federal Energy Management Program of the Office of Energy Efficiency and Renewable Energy coordinates FEMAC activities.

During FEMAC's first public meeting, members identified ESPCs as a priority issue and a vital tool for achieving Federal energy management goals. To address the financing of Federal energy management projects and support implementation of the ESPC program, FEMAC established an ESPC Working Group. During the last year, the group reviewed the full range of issues and benefits associated with using ESPCs to finance Federal energy management projects. At its June 8, 2004 public meeting, FEMAC approved *Resolution 01-04* recommending the immediate and permanent reauthorization of the ESPC program. This report, which was approved by the full committee on August 9, 2004, includes FEMAC's recommendations for the immediate and permanent reauthorization of ESPCs as a financing tool for Federal energy management projects.



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# ABBREVIATIONS, ACRONYMS, AND INITIALISMS

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CBO	Congressional Budget Office	FEMAC	Federal Energy Management Advisory Committee
COBRA	<i>Consolidated Omnibus Budget Reconciliation Bill (COBRA)</i>	FEMIA	Federal Management Improvement Act
DOD	U.S. Department of Defense	FEMP	Federal Energy Management Program
DOE	U.S. Department of Energy	GSA	General Services Administration
E.O.	Executive Order	IDIQ	Indefinite-delivery, indefinite-quantity
E.O.	<i>Executive Order (E.O.) 12902 - Energy Efficiency and Water Conservation at Federal Facilities</i>	JSC	Johnson Space Flight Center
E.O.	<i>Executive Order 13123 – Greening the Government through Efficient Energy Management</i>	PV	Photovoltaics
ECM	Energy conservation measure	NASA	National Aeronautic and Space Administration
EPACT	Energy Policy Act of 1992	NECPA	National Energy Conservation Policy Act of 1978
ESCO	Energy services company	OMB	Office of Management and Budget
ESPC	Energy savings performance contract(ing)	SES	Shared energy savings
FAR	Federal Acquisition Regulations	UESC	Utility energy services contract







# EXECUTIVE SUMMARY

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The Federal Energy Management Advisory Committee (FEMAC) recommends that the Secretary of Energy take immediate action to restore authority for Energy Savings Performance Contracts (ESPCs) for all Federal agencies. Reauthorization will enable agencies to move forward in implementing energy and water saving projects in Federal buildings and facilities nationwide. FEMAC members also support:

- Permanent reauthorization of ESPC for all Federal agencies
- Expansion of authority for water conservation projects in civilian agencies
- Elimination of statutory language requiring non-GSA civilian agencies to return 50 percent of their energy cost savings to the U.S. Treasury
- Pilot testing the use of ESPCs for non-building applications

ESPCs are alternative financing tools that Federal agencies use to reduce energy use, modernize aging equipment, reduce maintenance costs, and deploy energy efficiency and renewable energy technologies. ESPCs play a vital role in helping the Federal Government

meet or exceed its buildings energy use reduction goals and make up more than half of Federal building energy efficiency retrofit investment. ESPCs are an essential component to achieving energy, water and emissions-reduction and renewable energy goals.

An ESPC requires no up-front funding by the government to create energy savings. Companies implement energy conservation projects in Federal facilities and agencies pay over time from their utility bill and maintenance cost savings achieved from the project investments. Allowing ESPC authority to lapse forever will perpetuate Federal waste of large quantities of energy and water and require larger and larger budgets to accommodate the increasing costs of these diminishing commodities.

It is the Federal Government's commitment to the economical use of public dollars, protection of the environment, and energy security that make ESPC authority a critical component of a balanced energy management strategy. FEMAC urges the Secretary of Energy to take every action necessary to restore ESPC authority for all Federal agencies.





# INTRODUCTION

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The Federal Energy Management Advisory Committee (FEMAC) examined the Federal Government's use of ESPCs to finance energy management projects in Federal facilities. This report summarizes FEMAC's view of existing Federal authorities affecting energy management in the Federal sector, focusing on 1) mandated energy reduction goals, 2) the benefits of using ESPCs, and 3) the need for reauthorizing ESPC authority.

*An Energy Savings Performance Contract (ESPC) is a contract between the Federal Government and an energy service company (ESCO). The ESCO designs and implements an energy savings project and guarantees those savings to the government. The Federal agency agrees to reimburse the ESCO over time from the guaranteed savings generated by the project. If the energy conservation measures installed by the ESCO do not deliver the guaranteed energy savings, the agency is under no obligation to make payments to the ESCO in excess of the savings delivered. An ESPC is an alternative financing tool used by Federal, state, and local governments and the private sector to reduce energy use, modernize aging equipment, reduce maintenance costs, and deploy energy efficiency and renewable energy technologies.*

## **STATUS OF FEDERAL ESPC PROJECTS - *ESPC AUTHORITY EXPIRED ON OCTOBER 1, 2003***

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Initially, Federal energy management projects were funded primarily through annual appropriations and innovative financing techniques such as ESPCs and Utility Energy Service Contracts (UESCs). However, the role of ESPCs and UESCs has become increasingly more important to the Federal Government as individual agencies struggle to maintain and improve the energy and water efficiency of their facilities to meet energy reduction, environmental, and energy security goals. During the past four years, almost 80 percent of Federal energy management projects were funded by alternative financing mechanisms.

Data reveals that the Federal Government's use of ESPCs for energy conservation grew dramatically, while appropriated funding for energy projects remained relatively constant or decreased. In the past five years, ESPCs accounted for 51 percent of the total Federal investment in energy conservation, while appropriations accounted for only 23 percent.

Since December 1987, Federal agencies used the ESPC financing tool to meet mandated energy, water, and emissions-reduction goals. However, the government's authority to enter into ESPCs expired on October 1, 2003, despite bipartisan Congressional and Administration support for continuing the program.

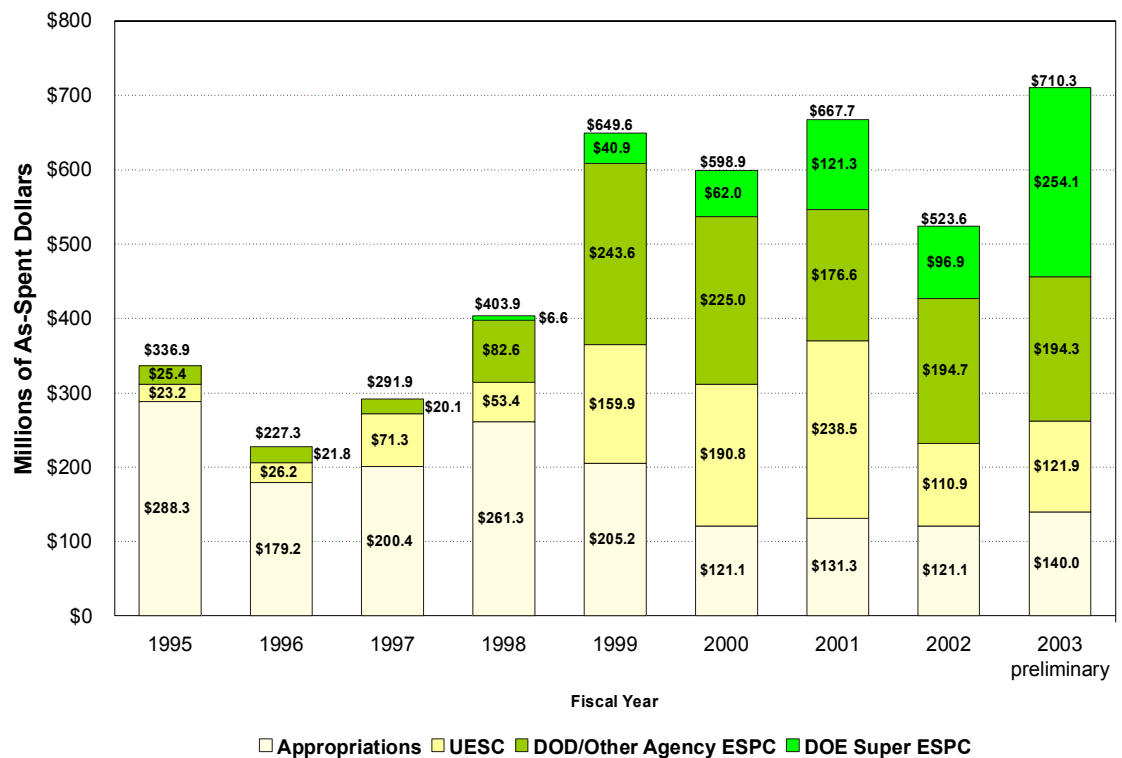


Figure 1. Federal spending by funding source to meet energy conservation goals, 1999-2003. (Source: Annual data submissions to FEMP by all federal agencies for its Annual Report to Congress on Federal Government Energy Management.)

Comprehensive energy legislation, drafted by the 106th, 107th, and 108th Congresses, included provisions to permanently authorize ESPCs; but, because of unrelated provisions, no comprehensive energy legislation or ESPC authorization has been enacted into law.

Since 1998, when the program was streamlined by DOE's umbrella ESPC contracts, more than \$1.5 billion in Federal energy management projects were awarded. This investment represents building improvements that otherwise could not have been accomplished through annual appropriations. Since ESPC authority expired in October 2003, industry estimates that nearly \$500 million worth of Federal energy management projects are stalled.

Historical data reveals that ESPCs played a significant role in helping the government meet Federal building energy efficiency goals in 1995 and 2000, and are essential to meeting 2005 and 2010 energy reduction goals. The Department of Defense (DOD) attributes more than 50 percent of its energy savings to investments using the ESPC alternative financing tool.

Guaranteed savings attributable to Federal ESPCs are equal to about 14.5 trillion site Btu annually, which is equivalent to more than three percent of the government's energy use in standard buildings. This savings is also equivalent to the amount of energy consumed annually by 141,100 households or a city of about half a million, almost the size of Washington, DC. ESPCs make up more than half

of the government's investment in the energy efficiency of Federal buildings. **FEMAC is concerned that without the immediate and retroactive reauthorization of ESPCs for all Federal agencies, it is unlikely that the government will achieve its 2005 or 2010 goals.** Retroactive reauthorization is needed so that DOE's and DOD's existing indefinite delivery indefinite quantity (IDIQ) contracts can continue to be used for new ESPC delivery orders. This is essential if another one-year authorization is enacted, so that agencies can immediately sign new task orders for the projects that lay dormant since last year.

FEMAC is also concerned that a one-year reauthorization is insufficient because even though agencies have significantly reduced

the time it takes to develop and implement new ESPC projects, the current cycle time for most is still longer than a year. Also, the current lapse in authority is jeopardizing core public and private sector expertise that took six years and \$1.5 billion of investments to create.

## FEDERAL ENERGY GOALS

The Federal Government is the nation's single largest consumer of energy, owning and operating a wide range of facilities and operations, including residential, commercial, industrial, institutional, and agriculture facilities. Recognizing the size and impact the Federal Government has on domestic energy consumption, President George W. Bush directed Federal agencies to "lead by example" and improve the energy efficiency of

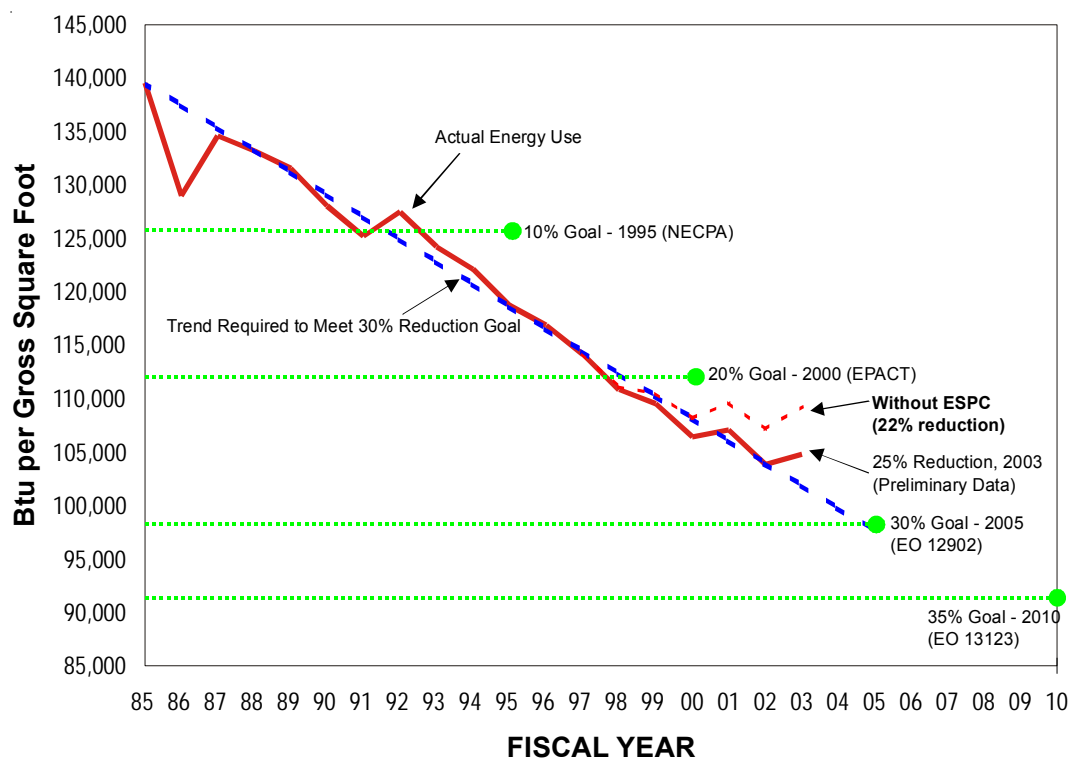



Figure 2. Federal Progress toward Standard Building Energy Reduction Goal. (Source: annual data submissions to FEMP by all federal agencies for its Annual Report to Congress on Federal Government Energy Management.)





government facilities. In the last 15 years, the Federal Government achieved ambitious energy conservation goals. The *Federal Energy Management Improvement Act (FEMIA)* of 1988, re-established statutory requirements for Federal energy efficiency improvements, amending the *National Energy Conservation Policy Act (NECPA)* of 1978 to require a 10 percent reduction in Federal building energy intensity (Btu per square foot) by 1995 (relative to 1985 building energy use). Subsequent requirements were established by legislation and executive orders, including the *Energy Policy Act (EPACT)* of 1992, requiring government agencies to reduce building energy intensity 20 percent by 2000, relative to 1985, and implement all energy conservation projects with a 10-year payback or less.

In 1994, *Executive Order (E.O.) 12902 - Energy Efficiency and Water Conservation at Federal Facilities*, required Federal agencies to reduce building energy intensity by 30 percent by 2005, relative to 1985. In 1994, *Executive Order 12902 - Energy Efficiency*

*and Water Conservation at Federal Facilities*, required Federal agencies to reduce building energy intensity by 30 percent by 2005, relative to 1985. Finally, in June 1999, *E.O. 13123 - Greening the Government through Efficient Energy Management*, replaced *E.O. 12902* and required Federal agencies to reduce building energy intensity 35 percent by 2010, relative to 1985. As shown in the chart above, ESPCs play an important role in helping the Federal Government meet its energy efficiency goals. In 2004, ESPCs could not be used. Although energy reduction data is not yet available for FY 2004, we anticipate that progress will have slowed. In order to attain the 30 percent reduction goal in 2005 as required by *E.O. 13123*, all Federal agencies will need to make significant investments in energy savings projects using every option available—appropriated dollars, UESCs, and ESPCs.

## **WATER CONSERVATION**

Both *EPACT* and *E.O. 13123* require agencies to conserve water. Civilian agency ESPC projects involving water efficiency have concentrated on the energy efficiency of those measures; because it is unclear whether water conservation savings can constitute the majority of savings in an ESPC. DOD is the exception because it was granted explicit authority to implement water conservation projects using ESPCs. Utilities are also authorized to include water conservation measures in UESC projects. Pending legislation, supported by the Administration to reauthorize ESPCs includes provisions to eliminate this inconsistency and expand the definition of energy to allow all Federal agencies to use ESPCs for their water conservation projects.

This provision is extremely important and timely, because many areas of the coun-

### **ESPC HIGHLIGHTS**

#### **ESPC Increases Energy and Water Efficiency and Reduces Costs**

NASA used an ESPC to finance energy and water efficiency measures at Johnson Space Flight Center (JSC) in Houston, Texas. The project included the installation of energy-efficient lighting and compressed air systems; implementation of water conservation measures; and improving air conditioning and lighting control systems at JSC, the Sonny Carter Training Facility, and Ellington Field. The project will save about \$2 million per year, from an original investment of \$20 million.

try are experiencing water shortages and have expressed interest in implementing alternatively financed projects for water conservation. In addition to water shortages, rates are increasing. Conservative estimates for savings opportunities in water efficiency measures indicate that the Federal Government uses 300 million gallons of water per day at a cost of \$229 - \$500 million per year (this represents about 3.5 percent of total U.S. water usage). Federal energy consumption associated with water use (mostly heating) is 59,200 million Btu per day, or 2.8 million barrels of oil per year. A conservative estimate of water efficiency potential in the Federal sector is 40 percent, or 121 million gallons per day and 24,810 MMBtu, which is nearly \$240 million in annual savings.

**FEMAC recommends expanding ESPC authority to permit all Federal agencies to save water and to further enhance the government's ability to meet *EPACT* and *E.O. 13123* water conservation goals.**

### **RESCIND REQUIREMENT TO RETURN 50 PERCENT OF SAVINGS TO U.S. TREASURY**

Current ESPC authority requires civilian agencies, except GSA, to return 50 percent of retained guaranteed savings to the U.S. Treasury. GSA has special authority that permits the agency to deposit all of its retained guaranteed ESPC savings into the GSA Federal Buildings Fund for subsequent use within the agency. The *FY 2004 Defense Authorization Act* eliminated the requirement for DOD to return retained ESPC savings to the U. S. Treasury. To comply with the spirit of the statute and minimize ESPC financing costs, most agencies negotiate their project terms to retain negligible guaranteed savings


## **ESPC HIGHLIGHTS**

### **ESPCs Address Energy Security Concerns**

The Marine Air Ground Force Training Command at Twentynine Palms, California, used an ESPC to finance the installation of a cogeneration (combined heat and power) system. The system, which will pay for itself in less than four years, was bundled with other ECMs, including a 1.2-MW PV system and three chiller plants, which may have been difficult to finance otherwise. The cogeneration system will provide a reliable power supply, energy security through off-grid generation, and cool indoor environment in a climate where temperatures can exceed 120 degrees. The \$16 million cogeneration system will reduce the base's need to purchase electricity from the local utility, saving about \$5.8 million per year.

in order to shorten the duration of the delivery order rather than return savings to the U.S. Treasury. **FEMAC believes strict compliance would require agencies to develop burdensome accounting systems to implement the requirement and unfairly penalize agencies other than GSA or DOD. And it is a disincentive to agencies trying to do the right thing.**

The statutory requirement treats civilian agencies differently from DOD and GSA. It creates a disincentive for non-GSA civilian agencies to use ESPCs, because those that do can be penalized with reduced future year budgets while agencies that take no action and continue to waste energy, receive the same or higher future year budgets for their growing utility expenses. ESPCs are designed to leverage an unchanged baseline utility budget to reduce energy use and deferred maintenance, achieve needed capital improvements, and thereby improve property management. They also help solve a problem of inadequate appropriations for improving Federal facility infrastructure. **FEMAC believes the requirement to send half of**



**guaranteed retained savings to the U.S. Treasury diminishes the benefits (e.g., capital improvements and reduced deferred maintenance) that ESPCs achieve.**

The remaining civilian agencies should be afforded the same option as DOD and GSA have for using energy savings to implement additional energy efficiency projects.

### **Non-Building Applications for ESPCs**

Currently, there is a considerable base of experience within the Federal Government using ESPCs for improving building efficiency, but many feel this base should be expanded. ESPCs could be used to reduce fuel usage and logistical tail of mobile assets such as Abrams Tanks, bombers, and aircraft carriers; or to improve efficiency or retrofit and return to service non-building stationary assets such as Federally owned hydropower facilities. Extending energy efficiency goals and ESPC authority to non-building applications could lead to significant savings to the government, increased private-sector business opportunities, and multiple other benefits, such as transfer and deployment of new technologies. Non-building energy consumption continues to increase. In FY 2003, the Federal Government spent \$4.9 billion on energy for transportation compared to \$3.7 billion for buildings. Applying the ESPC business model to non-buildings would provide the means to reduce energy use and costs where most needed. **FEMAC recommends that as the ESPCs program becomes permanent, authority should be expanded to test non-building applications through pilot projects or temporary authority.**

### **Scoring**

In July 1998, the Director of the Office of Management and Budget (OMB) issued a policy memorandum on the use of ESPCs,

which included guidance on the budgetary treatment or scoring of projects. OMB directed that ESPC obligations, budget authority, and outlays be recognized on an annual basis. OMB also requires that there be sufficient discretionary resources to complete the first fiscal year's contractual costs. For subsequent years, discretionary budget authority and outlays are recognized annually to the extent that contract payments are made. OMB recognizes that energy costs are reduced to reflect the savings generated by the ESPCs.

A major barrier to ESPC reauthorization during the 108th Congress was the change in the Congressional Budget Office's (CBO) scoring of the cost of authorizing legislation for extending ESPCs. Previously, CBO did not score agencies' use of ESPC authority. In 2003, CBO decided to score the permanent reauthorization of ESPCs at \$3.015 billion. ESPC permanent reauthorization was part of the comprehensive energy bill *H.R. 6 – Energy Policy Act of 2004*. CBO's estimated cost forced the Senate to drop ESPC permanent reauthorization from its energy bill. The \$3.015 billion CBO price tag also limited options for adding even temporary ESPC reauthorization to other legislative vehicles.

CBO's current scoring of ESPCs is an outgrowth of scrutiny of all forms of more costly Federal alternative financing mechanisms. CBO staff explained changes in scoring by referring to its February 2003 report, *"The Budgetary Treatment of Leases and Public/Private Ventures."* Although the report makes no mention of ESPCs, CBO staff assert that ESPCs are similar to the authorities studied and, like them, attempt to circumvent the budget process.

In theory, CBO's consistent application of strict and transparent rules to score the cost of legislation helps Congress make decisions



on legislation's full costs, how it fits into the overall Federal budget plan, and determines whether funding ceilings have been breached. Unfortunately for the ESPC program, distinctions between different types of new budget authority are not available to CBO for the purposes of bill scoring. The rules only allow categorizing an authorization as either discretionary or mandatory, and all construction (and other capital goods purchases such as vehicles, computers, etc.) is, by definition, mandatory. Therefore, according to the strict rules of bill scoring, CBO must classify ESPCs as mandatory spending and thus categorizes this alternative financing tool along with capital asset purchases. In addition, CBO has no mechanism for scoring subsequent savings generated from ESPC contracts.

According to CBO rules, ESPCs are a form of mandatory direct spending that should be reflected in the budget (as budget authority) when such contracts are entered into and a new government obligation is made. For outlays, CBO treats ESPCs similarly to lease-purchases, with outlays recorded when services or equipment are provided (in the case of ESPCs, within two years of contract award).

**FEMAC believes that CBO's score veils the true nature of ESPCs, where the government pays nothing up front and generally all payments in the out years are obtained from guaranteed savings to an agency's energy bill, which would absorb discretionary resources (such as funds from utility accounts), and would have been spent, with or without the ESPCs.** With proper implementation and enforcement of the guarantee, ESPCs paid off over term as originally scheduled will never need additional appropriations. In fact, actual net cost savings to the government may be larger than the

guarantees even suggest since ESCOs tend to guarantee less than 100 percent of the savings they estimate and the service life equipment may exceed the contract term.

ESPCs do contain "termination for convenience" clauses like any other Federal contract. It is theoretically possible that an agency could terminate an ESPC, be unable to pay the settlement (sometimes called the contingent liability) with existing funds, and require appropriations to do so. However, this circumstance has never occurred with an ESPC to date and rarely occurs in any government contract; therefore, ESPCs are statistically unlikely to pay termination costs. In general, ESPCs will net to a zero cost to the taxpayer, or more likely create significant net cost savings.

CBO's score for ESPCs, while technically correct by CBO rules, represents a worst-case scenario that could only come true if all government facilities using ESPCs were to close the year after an ESPC was implemented.

## **EVOLUTION OF ESPC AUTHORITY**

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In 1986, the *Consolidated Omnibus Budget Reconciliation Bill (COBRA)* amended *NECPA* to authorize "shared-energy-savings" (SES) contracts, a precursor to ESPCs. Under these contracts, the ESCO provides up-front funding for the installation of energy conservation measures (ECMs) and in return, shares in the cost savings the agency reaps from the ECMs. SES contracts were further defined by *EPACT* in 1992 and the *Energy Conservation Reauthorization Act of 1998*, each of which amended sections 801-804 of *NECPA* (42 U.S.C. 8287). *EPACT* renamed SES contracts as Energy Savings Performance Contracts.

## ESPC for a National Landmark

The Statue of Liberty National Monument site used an ESPC to reduce energy costs at Ellis and Liberty Islands. Because the Statue of Liberty is a national symbol and well-recognized landmark, the National Park Service decided not to make any modifications to the light projecting out from the statue. Instead, the contract focused on making improvements to other buildings at the site, including the installation of energy efficient lighting, variable-speed drives, and energy management control systems. The project resulted in an energy savings of four billion Btu per year. The Park Service uses this site to educate the public about its energy efficiency activities.

The current Administration expressed strong support for reducing energy consumption in Federal facilities. *E.O. 13123* encourages agencies to “maximize their use of alternative financing contracting mechanisms, including Energy Savings Performance Contracts ... to reduce energy use and cost in their facilities and operations.” The Administration endorsed implementation of *E.O. 13123* and in 2001, issued an additional order on energy efficiency, *E.O. 13221 - Energy-Efficient Standby Power Devices*. This order directs Federal agencies to purchase commercially available, off-the-shelf products that use standby power devices or contain an internal standby power function using no more than one watt while in the standby power consuming mode. **During the recent debate over comprehensive energy legislation, the Administration reiterated its support for the use of ESPCs to meet energy conservation goals by recommending the immediate restoration of ESPC authority for all Federal agencies.** The Administration’s position on ESPCs was expressed by Secretary of

Energy Abraham in an April 8, 2004 letter to Congress and in the Statement of Administration Policy on the *FY 2005 Defense Authorization Act*.

Despite strong support by the Administration, the lapse in authority has lasted for almost one year. Every day without reauthorization costs taxpayers money, puts Federally mandated energy goals further out of reach, and raises the cost to revitalize the ESPC program when it returns. With increasing competition for Federal resources to support national security and other government priorities, decision makers will also need to accommodate the increasing cost of energy to ensure continued and efficient operation of Federal facilities.

## OTHER ALTERNATIVE FINANCING MECHANISMS

Although the emphasis in this report is on ESPCs, there are other types of alternative financing mechanisms, such as UESCs. *EPACT* authorized and encouraged agencies to participate in energy efficiency programs and to accept financial incentives, goods, or services offered by utilities. DOD authority (10 UESC 2865 and 2866) further authorized DOD facilities to enter into procurements from gas or electric utilities to design and implement cost-effective demand-management and conservation services. The use of UESCs is addressed in the Federal Acquisition Regulations (FAR) Part 41.

UESCs are a vehicle for developing, financing, and implementing comprehensive energy conservation projects for Federal facilities. Utilities provide up-front project funding and agencies pay for the services over time on their utility bills. Utilities may provide audits, feasibility studies, design, financing, construction, and commissioning. UESCs can take

the form of a GSA Area-wide contract, a contract between GSA and a specific utility, or a site-specific (stand-alone) contract between the agency and the utility, or a basic ordering agreement. UESCs are widely used by Federal agencies and are especially helpful for small Federal sites in remote locations. UESC authority has not lapsed and the program is proceeding.

While UESCs are a helpful tool, they do not replace the need for ESPC authority. By statute, ESPCs can have delivery order terms of up to 25 years, allowing for larger, more comprehensive projects, while UESCs are limited to a 10-year term. UESCs do not have to contain contractual performance guarantees and there are no umbrella-type UESC contracts available for broad government use across individual utility service territories. Also, UESCs are only available in areas where the local utility company offers UESCs or demand-side-management services; therefore, UESCs are not available for all Federal projects.

## **CONCLUSIONS AND RECOMMENDATIONS**

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FEMAC reviewed the history and implementation of the ESPC program and is troubled by the Federal agencies' lack of authority to use this alternative financing tool to fund much needed efficient energy management projects. **The committee is in unanimous agreement that without the immediate and**

**retroactive reauthorization of ESPCs for all Federal agencies, it is unlikely that the Federal Government will reach mandated 2005 and 2010 energy reduction goals.**

We are encouraged by the Administration's support for reauthorization as expressed earlier this year by Secretary Spencer Abraham and the White House's Statement of Administration Policy. The Administration's support should be enough to secure new authority to continue this successful approach to financing Federal energy management projects and reducing the Federal Government's energy use. However, FEMAC believes greater, stronger support is needed to obtain permanent authorization, resolve retention of savings issues, and expand authorities. FEMAC recommends that the Administration pursue the following measures to strengthen the ESPC program and assist all Federal agencies in their pursuit of efficient energy management.

- Strongly support *permanent* reauthorization of ESPC authority for all agencies.
- Expand ESPC authority to investments in water conservation projects for all Federal agencies.
- Rescind the requirement for non-GSA civilian agencies to return 50 percent of retained guaranteed savings to the U.S. Treasury.
- Pilot test expansion of ESPC authority to non-building applications.



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# APPENDIX: RESOLUTION 04-01

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## RECOMMENDATION

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Members of the Federal Energy Management Advisory Committee (FEMAC) recommend the immediate and permanent reauthorization of Energy Savings Performance Contracts (ESPCs) to implement energy and water saving projects in Federal facilities.

In addition, FEMAC members strongly support:

- Expanded authority for stand-alone water conservation projects
- Elimination of the statutory requirement to send 50 percent of the savings to the Treasury
- Pilot testing use of ESPCs for non-building applications
- Further enhancements to improve ESPC program effectiveness

## ISSUE

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As a result of the October 1, 2003, sunset of the ESPC program, both public and private infrastructure for ESPC is in jeopardy. Recent estimates indicate that there are more than \$300 million worth of projects stalled due to the lapse in authority. Each day without ESPC authority puts the Federally mandated energy goals further out of reach, in addition to lost energy savings.

## BACKGROUND

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ESPCs and Utility Energy Service Contracts (UESCs) are alternative financing tools that Federal agencies use to reduce energy use, modernize aging equipment, reduce maintenance costs, and deploy renewable energy. ESPCs and UESCs make up more than half of the Federal building energy efficiency investment and are essential to the government's ability to achieve the 2005 and 2010 goals.

## BENEFITS

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ESPCs and UESCs played a vital role in helping the Federal Government meet or exceed energy efficiency goals between 1995 and 2000. The Department of Defense attributes more than 70 percent of its energy savings to the use of ESPCs and UESCs.

- ESPCs help agencies achieve healthier, safer, and more productive working conditions and make progress in meeting Federal energy, water, and emissions-reduction goals.
- ESPCs help the Federal government leverage private sector investment for untapped life cycle cost savings.
- ESPCs increase energy and water efficiency and reduce costs.
- ESPCs address energy security concerns.





- ESPCs help improve employee productivity and health.
- ESPCs help deploy renewables and innovative technologies.

It is the Federal Government's commitment to the economical use of public dollars, protection of the environment, and energy security, making ESPC authority a critical component to a balanced energy management strategy for improved energy efficiency and conservation at Federal facilities.



